

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA) NO. 4:21-CR-09
)
)
VS.) Houston, Texas
) 10:31 a.m.
)
ROBERT T. BROCKMAN) SEPTEMBER 13, 2021

ZOOM STATUS CONFERENCE

BEFORE THE HONORABLE GEORGE C. HANKS, JR.

UNITED STATES DISTRICT JUDGE

VOLUME 1 OF 1

APPEARANCES:

FOR THE GOVERNMENT:

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1 and, you know, this has been briefed, and the Fifth Circuit
2 law is clear. A party or a nonparty, you know, the target
3 of a subpoena cannot unilaterally decide that they are
4 claiming the Fifth Amendment and disregard the subpoena
5 entirely.

11:44:25

6 THE COURT: I have to stop you there. I have
7 got that argument. I mean, I respect Mr. MacDougall's
8 argument, but the issue is, if you're going to plead the
9 Fifth Amendment, you have to do it. You can't just say you
10 are going to do it and then not show up. The law is pretty
11 clear there.

11:44:36

12 Mr. MacDougall's argument, of course, is
13 that this is just harassment. There is really no reason to
14 have him come down and sit by the courthouse for five hours
15 waiting to testify, but there are ways of dealing with
16 that. I mean, the bottom line in the Fifth Circuit law is
17 if you are going to plead the Fifth Amendment, you don't
18 get a pass and say, I don't have to show up because I am
19 going to plead the Fifth. You are going to have to come
20 down to the courthouse and plead the Fifth Amendment.

11:44:51

11:45:03

21 If there is problems with inconvenience,
22 then we deal with that by having him go first, or
23 rearranging the court schedule so that he is only down
24 there for a minimal amount of time. So that argument we
25 don't need to address. I understand it. Respectfully, I

11:45:17

1 just disagree with Mr. Brockman's counsel's position.

2 Well, Dr. Yudofsky's counsel's position on that. So, you
3 can move on to the next topic.

4 MR. BOURGET: Okay. And I will, Your Honor.

11:45:33

5 And just to add very quickly with what Mr. MacDougall
6 discussed about Dr. Yudofsky having to be at the courthouse
7 for four to five days, there has never been any discussion
8 about us scheduling, and sliding Dr. Yudofsky to, you know,
9 a certain day or an afternoon, and that's something we are

11:45:49

10 happy to discuss. But we have never at any point
11 communicated that Dr. Yudofsky would have to show up on the
12 first day and potentially stay, you know, for four or five
13 days, you know, however long the hearing lasts.

14 THE COURT: I wouldn't let that happen. I

11:46:05

15 mean, I wouldn't let somebody just sit out in the hall. We
16 can coordinate schedules. That is not a problem.

17 MR. BOURGET: I understand. So it sounds like
18 the Court understands the part about Dr. Yudofsky having to
19 come testify. And so I will just reemphasize on -- in
20 terms of the production, yes, the materials that we are
21 seeking are directly related to the issue for the
22 competency hearing.

11:46:21

23 Mr. Brockman has put his ability to write
24 e-mails at issue, and Dr. Yudofsky is in this unique
25 position where he has communicated with Mr. Brockman about

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